

EXHIBIT G

HEARING

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

PHILLIPS, L.G., LCD CO., LTD,)
)
Plaintiffs,) C.A. No. 04-343(JJF)
)
v.)
)
TATUNG CO., TATUNG COMPANY OF)
AMERICA, INC., and VIEWSONIC)
CORPORATION,)
)
Defendants.)

Hearing of above matter taken pursuant to
notice before Renee A. Meyers, Registered Professional
Reporter and Notary Public, in the law offices of BLANK
ROME, LLP, 1201 North Market Street, Wilmington,
Delaware, on Tuesday, March 13, 2007, beginning at
approximately 5:05 p.m., there being present:

BEFORE: VINCENT J. POPPITI, SPECIAL MASTER

APPEARANCES:

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1 to make sure that I have an agreement, if there is one,
 2 that all of the documents that accompanied that cover
 3 are, in fact, the universe of documents that I am
 4 expected to review in camera.

5 Has anyone been able to turn their
 6 attention to that, and if not, when can you do that,
 7 please?

8 MR. MERIDETH: Your Honor, I have not
 9 checked the numbers against the one -- against the
 10 transcript, but I can do that this afternoon.

11 And, Your Honor, we provided more than
 12 the numbers that were referred to in the transcript. We
 13 have provided all of them.

14 SPECIAL MASTER POPPITI: Then the
 15 numbers that you have listed here are a universe that is
 16 bigger than the universe of the numbers in the
 17 transcript; is that correct?

18 MR. MERIDETH: That's correct, Your
 19 Honor.

20 SPECIAL MASTER POPPITI: In any event,
 21 I'd like a check on that so I can make sure that once the
 22 review is finished, that, in fact, I have looked at
 23 everything that I was expected to look at and review.
 24 Okay?

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1 SPECIAL MASTER POPPITI: Mr. Kirk.
 2 MR. KIRK: Yes, Your Honor. Richard
 3 Kirk, from the Bayard Firm, for the plaintiff, LG
 4 Phillips, LCD Company, Ltd., and I heard on the line my
 5 colleagues from McKenna, Long & Aldridge, Cass
 6 Christenson, I believe Rel Ambrozy, and there may be
 7 others, Your Honor. I am sorry, I didn't catch them.

8 MR. CHRISTENSON: I think that's all,
 9 Your Honor.

10 SPECIAL MASTER POPPITI: Thank you.

11 MS. GAZA: Your Honor, Anne Gaza from
 12 Richards, Layton & Finger. I believe on the phone with
 13 me are Frank Merideth, Mark Kreisman, and Valerie Ho from
 14 Greenberg Traurig.

15 SPECIAL MASTER POPPITI: Thank you.

16 MR. HEISMAN: Good afternoon, Your
 17 Honor. Jim Heisman from Connolly Bove on behalf of
 18 ViewSonic Corporation. Also on the line is Tracy Roman
 19 from the Rafkin Peter firm.

20 SPECIAL MASTER POPPITI: Thank you. Is
 21 everyone still there? Before we start, I want to focus
 22 everyone's attention on correspondence from Mr. Kirk
 23 dated March 12, which forwarded to me documents
 24 corresponding to privilege log entries. And I just want

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1 MR. MERIDETH: Yes, Your Honor.

2 SPECIAL MASTER POPPITI: As soon as you
 3 can get to it, Mr. Merideth, that will be helpful.

4 MR. MERIDETH: Yes, sir. I will do it
 5 this afternoon. Is it all right if I just send an email
 6 saying yea or nay?

7 SPECIAL MASTER POPPITI: Yes. That's
 8 fine.

9 Now, as we turn to the business of the
 10 day, before I hear any comments with respect to the
 11 substance of your respective submissions, it is important
 12 for me, and, in fact, I am required to focus on some
 13 dates that I think may drive an ultimate question that I
 14 have even before, at substance, and correct me if I am
 15 wrong with respect to these dates, I think I am correct,
 16 I believe the record reflects that the Rule 30(b)6
 17 notices were filed on December the 5th of 2006; is that
 18 correct?

19 MR. CHRISTENSON: Yes, Your Honor.

20 SPECIAL MASTER POPPITI: And I believe
 21 that objections with respect to that first filing were
 22 filed, and I am not sure that it is the same for each,
 23 that is, for Tatung and ViewSonic, January 5, but I'd
 24 like to know specifically as it relates to each of the

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<p>1 parties' defendants.</p> <p>2 MS. ROMAN: Give me just a moment and I</p> <p>3 will put the document up.</p> <p>4 SPECIAL MASTER POPPITI: Please.</p> <p>5 MS. ROMAN: Regarding the December 5th</p> <p>6 notices, the objections were served on January 5th.</p> <p>7 SPECIAL MASTER POPPITI: January 5?</p> <p>8 MS. ROMAN: Correct.</p> <p>9 SPECIAL MASTER POPPITI: And that was</p> <p>10 for ViewSonic?</p> <p>11 MS. ROMAN: That was for ViewSonic for</p> <p>12 LPL's original 30(b)(6) notices.</p> <p>13 SPECIAL MASTER POPPITI: There were</p> <p>14 supplemental notices, if I understand the record</p> <p>15 correctly, on January 24; is that correct?</p> <p>16 MR. CHRISTENSON: Your Honor, I believe</p> <p>17 that we did serve one additional topic to each defendant</p> <p>18 on or about January 24.</p> <p>19 SPECIAL MASTER POPPITI: Okay. And</p> <p>20 objections with respect to same, if any, when were they</p> <p>21 filed, please?</p> <p>22 MS. ROMAN: I am looking for that</p> <p>23 information. Just a moment. I am sorry, Your Honor. I</p> <p>24 am trying to get the information. I don't have the</p>	<p>1 Were they made all at once? Were they made over time?</p> <p>2 MS. ROMAN: Your Honor, the parties</p> <p>3 reached an agreement that designations would be made five</p> <p>4 business days before the dates of the deposition.</p> <p>5 SPECIAL MASTER POPPITI: Okay. And I</p> <p>6 believe I have -- just give me one moment, please -- and</p> <p>7 I would expect that that would mean, with respect to the</p> <p>8 deposition schedule that was provided to me by Mr. Kirk</p> <p>9 on February 23rd --</p> <p>10 MR. MERIDETH: Your Honor, actually, the</p> <p>11 most recent deposition schedule that was provided was</p> <p>12 attached to a letter from Mr. Miller dated February 26th,</p> <p>13 2007.</p> <p>14 SPECIAL MASTER POPPITI: That was sent</p> <p>15 to me?</p> <p>16 MR. MERIDETH: Yes, sir.</p> <p>17 MS. GAZA: Your Honor, on March 7th, we</p> <p>18 served Tatung Company and Tatung Company of America,</p> <p>19 Inc., objections to LPL's supplemental notices of</p> <p>20 deposition.</p> <p>21 SPECIAL MASTER POPPITI: What was the</p> <p>22 date again, please?</p> <p>23 MS. GAZA: March 7th, 2007. And the</p> <p>24 notice of service was BI 546.</p>
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<p>1 document in front of me.</p> <p>2 SPECIAL MASTER POPPITI: Okay. You can</p> <p>3 give me an about date for purposes of the backdrop, if</p> <p>4 you will, to my question.</p> <p>5 MS. ROMAN: Well, I don't want to</p> <p>6 misstate and say we served --</p> <p>7 SPECIAL MASTER POPPITI: I understand</p> <p>8 that.</p> <p>9 MS. ROMAN: I am not sure if the counsel</p> <p>10 for LPL knows if we served objections for the amended</p> <p>11 notices.</p> <p>12 MR. MERIDETH: Yes, we did.</p> <p>13 SPECIAL MASTER POPPITI: That was</p> <p>14 Mr. Merideth?</p> <p>15 MR. MERIDETH: Yes, Your Honor, the</p> <p>16 Tatung defendants.</p> <p>17 SPECIAL MASTER POPPITI: Do you know the</p> <p>18 date, sir?</p> <p>19 MR. MERIDETH: I don't off the top of my</p> <p>20 head.</p> <p>21 MS. ROMAN: I will try and find that for</p> <p>22 you, Your Honor.</p> <p>23 SPECIAL MASTER POPPITI: While you are</p> <p>24 looking for that, then, when were the designations made?</p>	<p>1 MR. CHRISTENSON: Your Honor, with</p> <p>2 respect to the deposition schedule, I believe the</p> <p>3 February 23rd and the February 26th letter should match.</p> <p>4 I just learned yesterday that the defendants, apparently,</p> <p>5 changed one of the agreed dates, but we have worked that</p> <p>6 out.</p> <p>7 SPECIAL MASTER POPPITI: Okay. And, in</p> <p>8 any event, whether it was the 23rd or the 26th, the</p> <p>9 schedule began on the 12th?</p> <p>10 MR. CHRISTENSON: Yes, Your Honor.</p> <p>11 SPECIAL MASTER POPPITI: And is expected</p> <p>12 to go through the 29th; correct?</p> <p>13 MR. CHRISTENSON: Correct.</p> <p>14 SPECIAL MASTER POPPITI: Now, I have</p> <p>15 said, I know, on at least, at least I think I have, on at</p> <p>16 least a number of occasions, that I think there are times</p> <p>17 when it is completely inappropriate to drive a process</p> <p>18 and expect that form should overtake substance. I am a</p> <p>19 firm believer in that when I think it's important to get</p> <p>20 the business at hand accomplished.</p> <p>21 But my question is this: Rule 26(c)</p> <p>22 reads as follows, "Upon motion by a party, or by a person</p> <p>23 from whom discovery is sought, accompanied by a</p> <p>24 certification that the movant has, in good faith,</p>

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1 conferred or attempted to confer with other affected
2 parties in an effort to resolve the dispute without court
3 action and for good cause shown," etcetera. That rule is
4 certainly no less mandatory than the Local Rule 7.11 in
5 our district that requires a statement filed by counsel
6 showing that the attorney making the motion has made a
7 reasonable effort to reach agreement with the opposing
8 attorneys on the matters set forth in the motion.

9 My question is this: I don't see -- let
10 me phrase it in the form of a question -- where is the
11 certification? That's my first question. And my second
12 question is: Why now and not long before preparation for
13 these witnesses could be expected to have been
14 accomplished?

15 MR. HEISMAN: Your Honor, attached to
16 our motion was various correspondence that went to and
17 from the parties --

18 SPECIAL MASTER POPPITI: Where is your
19 certification, sir?

20 MR. HEISMAN: The certification should
21 have been attached to the motion, itself, under 7.1.

22 SPECIAL MASTER POPPITI: If I missed it,
23 please direct my attention to it.

24 MR. HEISMAN: Your Honor, it was my

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1 understanding it was attached to the back of the papers.
2 If not, I can send you a copy momentarily.

3 SPECIAL MASTER POPPITI: Am I mistaken?
4 Has anyone else seen it?

5 MR. CHRISTENSON: Your Honor, if there
6 was one, I can't recall if there was or not, but I do
7 seem to recall there was some submission, I think it was
8 very cursory, I don't think it was sufficient, and I
9 believe that, primarily, it relied on a letter.

10 SPECIAL MASTER POPPITI: It was one
11 letter.

12 MR. CHRISTENSON: Yes, from Mr. Miller
13 to me late in the afternoon one day, asking me to respond
14 that same day. And I believe it was one business day
15 before they filed their motion.

16 SPECIAL MASTER POPPITI: I see that
17 letter. I am certainly mindful of the March 6th, 2007,
18 letter to you. You all have been involved in very
19 extensive motion practice with me, and you know that I am
20 accustomed to reading rather lengthy certifications, so
21 am I to understand that this March 6th, 2007, letter,
22 which is, in fact, Exhibit 7 on the March 7, 2007,
23 application, is the certification as to your efforts to
24 meet and confer?

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1 MS. ROMAN: Mr. Scott Miller has joined
2 the conference.

3 SPECIAL MASTER POPPITI: Thank you.

4 MR. MILLER: Hello, Your Honor.

5 SPECIAL MASTER POPPITI: How are you,
6 sir?

7 MR. MILLER: I am fine. I think -- and
8 Manuel Nelson is coming. This is sort of a joint effort
9 amongst a number of us. We had a number of discussions
10 with LPL originally after the January 5th objections were
11 served. We had a telephone conference on the 8th where
12 we had some discussion about various deposition topics,
13 and there were overlap between some of the issues that
14 are ViewSonic issues and the issues that were presented
15 with the LPL depositions, particularly as it relates to
16 experts and those kinds of things.

17 So, we discussed those kinds of issues
18 generally on the 8th, and then I believe there was a
19 follow-up telephone conversation after that. There was
20 supposed to be another conference that was going to
21 happen, I think, January 16th, which got postponed, and
22 then there was some letter correspondence that happened
23 through sometime in January. We got their supplemental
24 designation of topics in late January, and I think on

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1 January 29th, we sent them a letter objecting.

2 SPECIAL MASTER POPPITI: Are you reading
3 from something, sir?

4 MR. MILLER: No. I am going from
5 primarily from memory of what Mr. Nelson was telling me a
6 moment ago.

7 SPECIAL MASTER POPPITI: Isn't that part
8 of the problem? I mean, I am -- again, I don't want to
9 drive this by form over substance, but a motion for
10 protective order is a significant attention-getter by the
11 parties because it puts everything at a dead stall and
12 it's something that I need to pay very serious attention
13 to.

14 MR. CHRISTENSON: Your Honor --

15 SPECIAL MASTER POPPITI: I have. I
16 mean, let me assure you that I have read your submissions
17 not knowing whether or not there was an administrative
18 oversight and not providing the Rule 26(c) certification
19 and the Rule 7.1 certifications. It's the same document,
20 obviously.

21 Mr. Christenson, you were about to say
22 something.

23 MR. CHRISTENSON: Yes. Thank you, Your
24 Honor. I was just going to say to the extent that you --

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<p>1 to the extent that we need to talk about what Mr. Miller 2 just represented, I disagree with the characterization 3 that he gave you.</p> <p>4 SPECIAL MASTER POPPITI: That's my 5 problem. I mean, you all have, in numerous settings, 6 described to me as meet and confers, you frequently both 7 walk away from those meet and confers and ask me, at some 8 point, to "staunch the flow from your self-inflicted 9 wounds." That's a Steele quote, by the way, when he was 10 vice-chancellor.</p> <p>11 It's my responsibility to try to point 12 you in the right direction with respect to your 13 respective submittals, but, you know, quite frankly, I 14 don't have a Rule 26 or Local Rule certification, I am 15 really not in a position to measure whether or not there 16 has been effective meet and confers, and I am very 17 troubled by the fact that the -- if the letter dated 18 March 6th, that is the one that seems to be what counsel 19 suggested may be the certification, itself, the letter 20 dated March 6th is asking for a response by the end of 21 the business day, and I know and you all know, by the end 22 of the business day on the 6th, your respective teams 23 were in deposition and some of your team was preparing to 24 meet with me on the 9th of March for purposes of an all</p>	<p>1 it was too late to do it now, but my belief was that we 2 would go through this process as we would in a normal 3 case, work these things out as we would be working them 4 out, and we would have mutuality in terms of how we would 5 work these things out towards each other.</p> <p>6 And, so, through -- we had these 7 discussions in January, generally, about some of these 8 issues. We knew that we were having these issues in 9 February and we had some discussions. LPL didn't 10 identify witnesses for certain topics. And as the 11 depositions proceeded, again, in late February, in 12 Delaware, you know, it became apparent that Your Honor 13 believed that we needed to have a protective order motion 14 on file, that LPL needed to have a protective order 15 motion on file. And, so, we, you know, we were trying to 16 work these issues out with Mr. Christenson in terms of 17 where LPL was going to identify or not identify witnesses 18 on topics that would relate to expert testimony, for 19 example, and, you know, with the belief that there would 20 be mutuality in terms of how that would be worked out.</p> <p>21 We then prepared the March, I think it's 22 the March 6th letter you referred to to send to 23 Mr. Christenson to put forth a comprehensive list of the 24 issues and are here today.</p>
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<p>1 day hearing. And, again, why now and why wasn't this 2 done earlier with an appropriate certification?</p> <p>3 MR. HEISMAN: Your Honor, I did attach a 4 certification after speaking with Mr. Miller. It was in 5 the form typically submitted to the District of Delaware 6 Courts. The letter that you are referring to from 7 Mr. Miller was, from my understanding, one of several 8 communications on the topic with plaintiffs.</p> <p>9 MR. MILLER: Your Honor, I guess I will 10 try to answer it in terms of why and how we got to the 11 point of that letter.</p> <p>12 The letter clearly is the most detailed 13 and direct identification of some of the issues from 14 ViewSonic's standpoint. But I guess why we -- what 15 happened leading up to that is there were issues where 16 the subject of deposition topics that ViewSonic had 17 noticed, that Tatung had noticed, and that LPL had 18 noticed, for example, some of these issues were directed 19 to expert testimony on infringement and validity 20 contention, those sorts of things, we knew that we were 21 working with LPL and that we would have to resolve those 22 issues somehow.</p> <p>23 And I guess maybe -- it's certainly my 24 responsibility, and, at the end of the day, my fault, if</p>	<p>1 You know, so, if that is inadequate 2 under the press of time that everybody was working under 3 and in the hopes that we were -- we would be working 4 these things out, then, obviously, that's my 5 responsibility and my fault.</p> <p>6 MS. ROMAN: Mr. Christenson can also 7 agree that we have continued to work with LPL regarding 8 these topics and we have tried to resolve some of these 9 topics -- we are not quite there yet -- regarding what 10 Mr. Miller was just mentioning with respect to topics 11 that speak to infringement and invalidity contention or 12 claim construction issues which really is the heart of 13 most of the areas of the motion for protective order, and 14 I am happy to forward that correspondence to Your Honor.</p> <p>15 MR. CHRISTENSON: Your Honor, just to 16 respond briefly, I do not feel there has been any 17 adequate attempt to respond to these issues informally 18 without a motion, and I do feel the motion is much too 19 little much too late.</p> <p>20 I haven't heard anything yet today about 21 efforts by Tatung Company, but with respect to ViewSonic 22 and what Mr. Miller said, just very briefly, I raised 23 questions about topics with ViewSonic to try to work out 24 some of these issues with respect to LPL's depositions in</p>

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1 January and in December --

2 SPECIAL MASTER POPPITI: I saw that in
3 your correspondence of -- give me a second here, please
4 -- March 8.

5 MR. CHRISTENSON: Yes. And in January,
6 we had a call on January 5th, we had a follow-up call on
7 January 8th, where I again raised some issues. We then
8 agreed on that call -- and Mr. Miller was not on the
9 January 8 call -- we agreed on that call with ViewSonic's
10 counsel and Tatung's counsel to have a follow-up call on
11 January 17 and to exchange, in the interim, our concerns
12 about the topics.

13 At that point, I think it was January
14 16, the day before that call, ViewSonic unilaterally
15 cancelled the call and refused to appear for the call.
16 And after that time, Mr. Miller took the position that no
17 further telephonic discussions would occur among counsel
18 without the presence of a court reporter, and that they
19 wouldn't have a court reporter present unless LPL agreed
20 to pay. And we couldn't resolve that issue.

21 And after that time, there was no real
22 effort to resolve any of the topics that we have noticed
23 until the March 6th letter, which, as Mr. Miller agrees,
24 is the first time they set forth in detail these issues.

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1 And, so, I don't think that constitutes a good faith
2 effort.

3 Furthermore, Your Honor, with respect to
4 LPL's witnesses, the argument was made that LPL was
5 obligated, having not moved previously for protective
6 order, to provide testimony on all of these topics.

7 SPECIAL MASTER POPPITI: I understand
8 that.

9 MR. CHRISTENSON: And we -- and, so,
10 they have put us in the position of providing the similar
11 information and arguing that we have failed to properly
12 seek a protective order, and now, of course, when the
13 shoe is on the other foot, they seem to think a different
14 standard should apply.

15 MS. ROMAN: That's just not correct. We
16 have not stated that it was too late for them to seek a
17 protective order on the 23 topics that they didn't
18 designate a witness for.

19 We have simply -- they just never filed
20 a motion for protective order, and, so, we continued, in
21 good faith, to try to work in good faith with them to try
22 and resolve the issues. And it's a little bit
23 unfortunate that we went ahead and followed the procedure
24 of filing a motion for protective order and we are not

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1 going to be able to get resolution or get LPL to agree to
2 work these issues out with us even though we did follow
3 the procedure and they never filed their own motion.

4 MR. CHRISTENSON: Your Honor, we worked
5 out all of the topic issues with respect to LPL and we
6 have agreed to provide supplemental testimony on many of
7 those topics and we resolved the other topics.

8 We had also proposed a two-way deal for
9 everybody to defer some topics that we felt were more
10 suitable for experts. We offered that more than once and
11 the defendants would not agree with us on that. I think
12 now they may be willing to agree and we are still trying
13 to work with them on those discrete issues.

14 MR. MERIDETH: We did agree to that
15 proposal. I have sent you a couple of emails on that.
16 In fact, I sent you an email today reminding you that I
17 had sent you an email.

18 SPECIAL MASTER POPPITI: Counsel, what
19 you are doing for me is identifying the nature of the
20 problem that I have identified.

21 It is difficult, at best, to -- well,
22 it's difficult to focus on the substance of it all,
23 having been through the substance of it all, without
24 knowing the path forward in an appropriate filing with

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1 sufficient detail for me, on behalf of the Court, to make
2 a judgment that it is a proper filing.

3 The language of the rules makes sense.
4 The language of the rules, both of them, the language is
5 mandatory, and it's there for a purpose.

6 I mean, I expect you wouldn't -- no one
7 would disagree with that; is that fair? I don't hear any
8 disagreement.

9 Now, if there was to have accompanied
10 this filing a 7.11 or a Rule 26(c) and it didn't get
11 attached, then I need to see it because nothing came over
12 other than March 7, seven exhibits, and I have read the
13 March 8th correspondence and all of their exhibits -- and
14 all of the exhibits attached to that, and then the March
15 12th and all of the exhibits attached to that as well as
16 Tatung joining on March 12th.

17 I mean, it's a little bit frustrating,
18 and I heard what Mr. Merideth just said. I don't have
19 the benefit of that if I don't have an appropriate
20 certification.

21 MR. CHRISTENSON: Your Honor, I think
22 that Mr. Merideth was referring to email sent to me
23 today.

24 SPECIAL MASTER POPPITI: I understand

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7 (Pages 22 to 25)

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<p>1 what he said.</p> <p>2 MS. ROMAN: Just so that I can be clear</p> <p>3 as to what it is, as Mr. Heisman mentioned, there was a</p> <p>4 certification signed by him, a single page, that was</p> <p>5 attached to the motion and to the -- it was -- it</p> <p>6 preceded the exhibits that you have referenced.</p> <p>7 I just want to make sure that the</p> <p>8 question isn't whether you received that, but your</p> <p>9 concern is whether or not that was sufficient?</p> <p>10 SPECIAL MASTER POPPITI: That's correct.</p> <p>11 That's exactly correct.</p> <p>12 MS. ROMAN: Your Honor, as Mr. Miller,</p> <p>13 and also myself, as well, being involved in arguing and</p> <p>14 certainly preparing this motion, we accept responsibility</p> <p>15 for the lack of additional detail in it.</p> <p>16 SPECIAL MASTER POPPITI: Let me ask this</p> <p>17 question -- and I am going to ask my colleagues at the</p> <p>18 local Bar; every once in a while, it's important to make</p> <p>19 sure that I am reflecting what I expect Delaware practice</p> <p>20 expects on behalf of the Court -- counsel, you have the</p> <p>21 benefit of looking at the March 7th one-page</p> <p>22 certification from Mr. Heisman, and I don't have anything</p> <p>23 other than that detailing what, apparently, is in</p> <p>24 dispute; how do I deal with that?</p>	<p>1 colleagues can search records and find certifications</p> <p>2 that I have done that are quite sketchy, quite bare</p> <p>3 boned. I think that Local Rule requirement, I think, as</p> <p>4 I read it, requires that counsel certify that efforts</p> <p>5 have been made but not necessarily that all of those</p> <p>6 efforts be detailed in the filing.</p> <p>7 If I can read it, it says, "If the</p> <p>8 moving party files with the Court, at the time of filing</p> <p>9 the motion, a statement showing that the attorney making</p> <p>10 the motion has made a reasonable effort to reach</p> <p>11 agreement with the opposing attorneys on the matters set</p> <p>12 forth in the motion".</p> <p>13 SPECIAL MASTER POPPITI: And I read the</p> <p>14 same language that you did and that everybody reads, and</p> <p>15 I read "statement showing" to be more than just a</p> <p>16 one-page submission that has been done. I have got your</p> <p>17 certification, I have got what I have. Let's -- I'd like</p> <p>18 some answer to the question as to why now and not</p> <p>19 earlier?</p> <p>20 MS. ROMAN: I will let Mr. Miller chime</p> <p>21 in, too, if this is incorrect, but I believe what he</p> <p>22 expressed earlier was that the parties have been</p> <p>23 operating under an understanding that we had each</p> <p>24 exchanged our various objections and things would be</p>
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<p>1 MR. HEISMAN: Your Honor, I can tell</p> <p>2 you, from a matter of Delaware practice, that the</p> <p>3 certification which I attached to the motion that went to</p> <p>4 Your Honor is similar to certifications that are attached</p> <p>5 in my practice and I believe the practice of everyone in</p> <p>6 my firm that typically go to the District of Delaware,</p> <p>7 and based on the representations that the parties made an</p> <p>8 effort to resolve the dispute, we were unable to, and</p> <p>9 that's what the certification indicated.</p> <p>10 I recognize that it didn't put into</p> <p>11 great detail what Mr. Miller has explained to Your Honor</p> <p>12 which creates the dispute, but, nonetheless, that's the</p> <p>13 typical certification that's filed with motions in this</p> <p>14 District.</p> <p>15 SPECIAL MASTER POPPITI: I have seen</p> <p>16 certifications, counsel, but I have not seen them as a</p> <p>17 one-pager without any attachments.</p> <p>18 MS. GAZA: Just to address the issue as</p> <p>19 well, we have also filed similar certifications in the</p> <p>20 District Court stating that the parties have attempted to</p> <p>21 resolve the disputes referenced in the papers and have</p> <p>22 been unable to do so and replied upon the motion or the</p> <p>23 brief to address the substance of the dispute.</p> <p>24 MR. KIRK: Your Honor, I am sure my</p>	<p>1 worked out or wouldn't be worked out. It really wasn't</p> <p>2 until we were on with Your Honor during the first week of</p> <p>3 deposition of Mr. Kim, LPL's witness, that it was made</p> <p>4 abundantly clear, to all the parties, that a motion for</p> <p>5 protective order would be the only vehicle by which a</p> <p>6 witness could seek protection from testifying as to any</p> <p>7 category. So, we proceeded immediately from there to try</p> <p>8 to get the motion prepared and to make one additional</p> <p>9 effort to meet and confer on these issues which is</p> <p>10 reflected on that March 6th letter.</p> <p>11 SPECIAL MASTER POPPITI: Any other</p> <p>12 comments about that, then, please? Let's turn to -- we</p> <p>13 will turn to substance.</p> <p>14 MS. ROMAN: Thank you, Your Honor.</p> <p>15 I think, perhaps, the easiest place to</p> <p>16 start is with the topics that focus fundamentally on</p> <p>17 invalidity and infringement contention and claim</p> <p>18 construction, 10 and 11.</p> <p>19 I will just state, for purposes of</p> <p>20 Mr. Christenson, please feel free to chime in at any time</p> <p>21 if you think that we have reached agreement on some of</p> <p>22 these because I certainly don't want to waste anyone's</p> <p>23 time.</p> <p>24 But topics 10 and 11 would be the best</p>

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8 (Pages 26 to 29)

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1 place to start. As I understand it, these topics seek
 2 the contentions concerning whether or not the
 3 patents-in-suit are infringed by the products. That's
 4 topic 10. Topic 11 seeks ViewSonic's position and
 5 contention concerning whether the patents-in-suit are
 6 unenforceable for any reason. And I think that the
 7 parties are in agreement that the contentions,
 8 themselves, are areas that should not be explored with
 9 fact witnesses but should be reserved for expert
 10 deposition. We have agreed to that limitation with
 11 respect to not requiring LPL to produce a fact witness
 12 for similar topics.

13 SPECIAL MASTER POPPITI: Okay.

14 MS. ROMAN: The continuation of topics
 15 10 and 11 also states the factual basis responsive to
 16 interrogatories and documents concerning those positions.
 17 And I think that's where our last discussion has left off
 18 as to whether or not we have to produce a fact witness
 19 for that portion of the topic. And our difficulty is
 20 trying to figure out how we parse out what is expert
 21 testimony versus what is a fact witness testimony on
 22 infringement and invalidity contentions relative to the
 23 factual phase of the interrogatory responses and document
 24 responses.

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1 SPECIAL MASTER POPPITI:
 2 Mr. Christenson.

3 MR. CHRISTENSON: Yes, Your Honor. It
 4 sounds like ViewSonic -- until recently, ViewSonic was
 5 reserving the right to elect whether they would defer to
 6 experts on contentions concerning validity and
 7 infringement and it sounds like they have made the
 8 election to defer to experts. Miss Roman stated
 9 correctly that LPL had made that same election. And, so,
 10 it sounds like that issue --

11 SPECIAL MASTER POPPITI: Doesn't that
 12 resolve --

13 MR. CHRISTENSON: -- is moot; in other
 14 words, resolved. As Ms. Roman said, however, the topics
 15 go on to request information concerning the factual basis
 16 and relevant documents, which I believe are appropriate
 17 fact witness issues.

18 SPECIAL MASTER POPPITI: And that's what
 19 she is talking about. She is saying that they are
 20 having, correct me if I am wrong, you are having a
 21 difficult time parsing, and I guess my -- I am having a
 22 difficult time understanding why that's difficult.

23 It may not be the most efficient way to
 24 do it, but you are not suggesting that the topic 10, if

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1 it only had the factual basis interrogatories, documents,
 2 you are not suggesting that that would be inappropriate;
 3 correct?

4 MS. ROMAN: To the extent that the
 5 interrogatories that are focused on are the invalidity or
 6 infringement contention interrogatories, then I think
 7 it's one in the same. The factual basis really is the
 8 contention and what underlies it, in all of that, is
 9 testimony that's going to be put forth through an expert.

10 MR. AMBROZY: Your Honor, if I may?

11 SPECIAL MASTER POPPITI: Please.

12 MR. AMBROZY: In regards to No. 10,
 13 where it discusses the basis for infringement or
 14 non-infringement and their responses in interrogatories,
 15 I believe that the underlying fact as to whether their
 16 monitor or television contains a certain element is a
 17 factual basis on which a witness can be identified.

18 MS. ROMAN: I wouldn't disagree with
 19 that, Rel. I think that's covered in many of the other
 20 topics, and certainly that makes sense to me.

21 As I was reading topic 10 and 11 and
 22 reading the factual basis and the responses to
 23 interrogatories and the documents concerning our
 24 contention for infringement and invalidity, I read that

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1 to be seeking the information regarding the conclusions
 2 that are reached or the expert's testimony that's going
 3 to come forth on those.

4 SPECIAL MASTER POPPITI: I don't -- that
 5 would be virtually -- I mean, that would be crazy,
 6 wouldn't it?

7 MR. CHRISTENSON: Yes, Your Honor. It
 8 sounds to me like they are trying to suggest it can't be
 9 a separate factual basis for a contention. We just
 10 disagree with that fundamentally.

11 MS. ROMAN: I am actually suggesting
 12 that we wouldn't have a fact witness that would be
 13 putting forth that factual basis. But I understand, from
 14 Mr. Ambrozy's point, I believe, that you are considering
 15 that the factual basis can be as broad as what are the
 16 components within our product and identifying those
 17 components. Hearing that, I understand the distinction
 18 you are making.

19 SPECIAL MASTER POPPITI: And with that
 20 distinction, is it not going to depend, then, on what
 21 questions are posed?

22 MS. ROMAN: Yes, Your Honor.

23 SPECIAL MASTER POPPITI: Okay.

24 MS. ROMAN: So I think that we all have

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9 (Pages 30 to 33)

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<p>1 a clear understanding with regard to topics 10 and 11, 2 and to the extent we are dealing with just the beginning 3 half of it that deals with the contentions, the ultimate 4 contentions, that that will be areas that ViewSonic is 5 going to rely on expert testimony for, and then if a fact 6 basis is something that's within the scope and knowledge 7 of the fact witness, then that will be provided. 8 SPECIAL MASTER POPPITI: Okay. Thank 9 you. Next, please. 10 MS. ROMAN: Your Honor, I think I can 11 short us through a few of the other topics if I might 12 identify them first and then explain why I am grouping 13 them together because they flow from what we just 14 discussed with respect to topics 10 and 11. 15 SPECIAL MASTER POPPITI: Yes, please. 16 MS. ROMAN: This would be topics, four 17 eight, nine, and 23. 18 SPECIAL MASTER POPPITI: Just a second. 19 Four, eight, nine, and 23, okay. 20 MS. ROMAN: Yes, Your Honor. 21 SPECIAL MASTER POPPITI: Thank you. 22 MS. ROMAN: Each of these topics, 23 because of their breath, also raise concern to the extent 24 that the testimony sought would be seeking not only fact</p>	<p>1 involving the opposition to the preliminary injunction 2 motion, the U.K. proceedings and decision, and to the 3 extent one is obtained, after claim construction, an 4 opinion of counsel, which, I will just acknowledge for 5 the record, I understand LPL disagrees about whether we 6 can offer such an opinion, but just for purposes of the 7 scope of topic four. 8 So, for each of those categories I just 9 identified that we feel would fall within the scope of 10 topic four, we would produce a fact witness. For 11 everything else, we believe it would be proper to reserve 12 it for expert testimony and we agreed to rely on expert 13 testimony for the remainder of it. 14 MR. CHRISTENSON: Your Honor, if I may 15 respond? 16 SPECIAL MASTER POPPITI: Yes, please. 17 MR. CHRISTENSON: The concern I have 18 with the proposal from ViewSonic is that they are 19 attempting to say they are going to rely on experts with 20 respect to whatever I guess it is that the expert may do 21 in terms of an analysis or an investigation or testing. 22 However, then they bring back in and put on the table 23 certain categories of those activities that they think, 24 apparently, are favorable to them for which they will</p>
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<p>1 witness testimony but could bleed into expert testimony 2 or areas that were specifically only appropriate for 3 expert witnesses. And I sent Mr. Christenson an email 4 that broke down, within each topic, what areas we 5 believed would be specific for fact witnesses and what 6 would be specific for expert witnesses. And I am just 7 not sure if we still have a dispute on that or whether 8 Mr. Christenson needs further clarification from me on a 9 position on those topics. 10 MR. CHRISTENSON: Yeah. I sent you an 11 email back on that, and I was not clear on -- my 12 understanding was you were designating a witness as to 13 those topics, but you were proposing some limit on those 14 topics and it wasn't clear to me exactly what was the 15 limit proposed. 16 MS. ROMAN: Can I just walk through it 17 now and we can see if we can reach clarification on it? 18 SPECIAL MASTER POPPITI: Yes, please do. 19 MS. ROMAN: With regard to topic four, 20 which states, "Any infringement analyses, inspections, 21 investigations, or testing," etcetera, we had proposed 22 that we would produce -- we would rely on expert 23 testimony except to the extent that this topic seeks 24 information regarding retention of counsel, the issues</p>	<p>1 provide a witness. I think we have the right to test and 2 find out if there are unfavorable investigations or 3 inspections or testing that would benefit our client and 4 that we would want to offer. 5 SPECIAL MASTER POPPITI: You mean the 6 existence of them? 7 MR. CHRISTENSON: Yes, Your Honor, the 8 existence and nature of them, for example. So I don't 9 want to agree that they can just pick the ones that 10 should be discussed at the deposition. I don't think 11 that's appropriate. I think we should have the right to 12 explore that, and I would note, Your Honor, that the 13 topic is very similar to topic 24E that was noticed to 14 LPL and for which LPL provided a witness. 15 MS. ROMAN: Perhaps, then, there is a 16 better way of going about each of these topics. 17 SPECIAL MASTER POPPITI: Why don't you 18 propose that, then, please? 19 MS. ROMAN: Fundamentally, our concern 20 is that we don't want to have to have fact witnesses 21 testifying as to those areas for which expert testimony 22 is the appropriate testimony in Delaware, specifically, 23 infringement contentions, invalidity contentions, and, 24 also, this would fall with regards to claim construction,</p>

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10 (Pages 34 to 37)

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1 any of the topics that relate to claim construction
2 before the claim construction order has been issued.

3 And to the extent that all of the topics
4 that I have identified might sweep in some of that, it
5 won't matter because the parties have agreed that
6 questioning regarding the contention is improper until
7 expert testimony. And then we can provide the fact
8 witnesses and hope that, during the depositions, there is
9 no disagreement as to whether certain questioning goes to
10 the contentions or not.

11 SPECIAL MASTER POPPITI: Well, let me
12 suggest this: If you are able to forge that agreement,
13 and certainly understanding that questioning a fact
14 witness as to the factual basis of contentions may be
15 fair -- you would agree with that, correct?

16 MS. ROMAN: Yes. I understand that,
17 Your Honor.

18 SPECIAL MASTER POPPITI: If you forge
19 that agreement and you find yourself in a deposition
20 where the agreement is coming off track, in light of the
21 fact that I am dealing with a protective order and it is
22 not a function of my responding to an instruction not to
23 answer, it would be really to get you back on track with
24 your agreement, then I certainly would be available to do

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1 that.

2 But Mr. Christenson, what I am hearing,
3 it makes some sense, does it not?

4 MR. CHRISTENSON: Your Honor, it makes
5 some sense, but I have a concern that I would like to
6 express.

7 SPECIAL MASTER POPPITI: Sure.

8 MR. CHRISTENSON: That is that the
9 contention topics are three specific topics in our
10 notice, and those are topics eight, 10, and 11.

11 SPECIAL MASTER POPPITI: Just a second.

12 MR. CHRISTENSON: What I am
13 understanding Miss Roman to say is that they want to
14 treat, under some agreement that does not exist, as
15 covering contention issues, you know, the many, many
16 topics that they identified in the motion for protective
17 order.

18 MS. ROMAN: What I really want to do is
19 make sure that the protection that's provided for topics
20 eight, 10, and 11 isn't circumvented by virtue of the
21 breath of another topic being brought on us to sweep in
22 that information. That's all I am trying to make sure
23 of.

24 MR. CHRISTENSON: I think it's, to the

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1 extent we ask on a contention issue and we have agreed
2 that contention issue will be deferred to experts, we
3 can't, obviously, use a different topic number to get the
4 contention issue resolved by a fact witness. So, I don't
5 think that's going to be a problem.

6 I am just trying to avoid a situation
7 where there is some suggestion that some of these topics,
8 other than eight, 10, and 11, are somehow part of an
9 agreement.

10 MS. ROMAN: Perhaps also adding topic
11 nine to the extent it pertains to specific defenses of
12 non-infringement -- well, you are saying that's not a
13 specific contention?

14 MR. CHRISTENSON: Right. Fact nine is
15 the basis, so, again, I think that's seeking factual
16 information.

17 MR. AMBROZY: If we were to ask the
18 witnesses about what they knew existed before the patents
19 were filed, what technology they knew before the patents
20 were filed, I think that's a totally proper factual
21 inquiry, although it might -- it might be swept under
22 invalidity, it still is not part of the invalidity
23 contention. Even if it was, it still is the fact
24 witness' or ViewSonic's knowledge of a fact in existence,

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1 so I think that's a proper topic.

2 MS. ROMAN: Right. I agree with that.
3 Whereas, the contrary, which would be: Why do you
4 contend that this particular reference is prior art?

5 SPECIAL MASTER POPPITI: That's
6 different.

7 MR. CHRISTENSON: Right. I agree, Your
8 Honor.

9 SPECIAL MASTER POPPITI: That's
10 completely different. It sounds to me like you are both
11 on the same page.

12 MS. ROMAN: Yes. I think that that
13 works, and if Mr. Christenson is willing to go with that
14 understanding as he just voiced it and we just voiced it,
15 then I will as well. It would be the contentions are
16 topics -- what was it -- eight, 10, and 11?

17 SPECIAL MASTER POPPITI: Eight, 10, and
18 11.

19 MS. ROMAN: For which we could rely on
20 expert testimony except to the extent that 10 and 11
21 seeks factual basis as we discussed.

22 SPECIAL MASTER POPPITI: Yes.

23 MS. ROMAN: And that, to the extent that
24 there is any disagreement during the depositions as to

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11 (Pages 38 to 41)

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<p>1 whether or not questioning is going astray from this</p> <p>2 agreement, then we can seek Your Honor's assistance.</p> <p>3 SPECIAL MASTER POPPITI: Yes.</p> <p>4 MR. CHRISTENSON: That's fine, Your</p> <p>5 Honor.</p> <p>6 SPECIAL MASTER POPPITI: Okay.</p> <p>7 MR. MERIDETH: I would agree with that</p> <p>8 also as well on behalf of the Tatung defendants.</p> <p>9 SPECIAL MASTER POPPITI: Thanks,</p> <p>10 Mr. Merideth.</p> <p>11 MS. ROMAN: Sorry. For the topics that</p> <p>12 related to -- or what we believed required claim</p> <p>13 construction in order to properly respond to questioning</p> <p>14 of -- under them, that was topics, I believe, one, five,</p> <p>15 27, and 29.</p> <p>16 SPECIAL MASTER POPPITI: Okay. Go</p> <p>17 ahead, please. By "one," that is the newly designated</p> <p>18 one?</p> <p>19 MS. ROMAN: Yes, Your Honor.</p> <p>20 SPECIAL MASTER POPPITI: Okay.</p> <p>21 MS. ROMAN: I believe that the terms</p> <p>22 that are included in it are flat panel display, flat</p> <p>23 panel display device, and housing, although flat panel</p> <p>24 display, I think we might actually have an agreed</p>	<p>1 products. The flat panel display device is one of the</p> <p>2 terms that has been raised for construction. And to the</p> <p>3 extent that this topic would require a witness to respond</p> <p>4 to questions that involve proposed construction, I think</p> <p>5 it's premature, as Your Honor has previously indicated.</p> <p>6 Otherwise, other than that --</p> <p>7 SPECIAL MASTER POPPITI: I am still</p> <p>8 flipping through documents here to look at -- to look and</p> <p>9 see where No. 1 is because it is not No. 1 -- what number</p> <p>10 was used to -- in the re-numbering?</p> <p>11 MS. ROMAN: I think it was 31.</p> <p>12 SPECIAL MASTER POPPITI: And that's,</p> <p>13 perhaps if you could tell me what submission and what</p> <p>14 exhibit it's under? I am looking at an LPL submission,</p> <p>15 and I do not have --</p> <p>16 MS. ROMAN: Your Honor, I believe the</p> <p>17 topic No. 1 I am referring to is actually the original</p> <p>18 topic No. 1.</p> <p>19 SPECIAL MASTER POPPITI: Okay. It is.</p> <p>20 It begins, "The structure of the visual display product"?</p> <p>21 MS. ROMAN: Yes, Your Honor. I pointed</p> <p>22 out flat panel display device is one of the terms that</p> <p>23 has been breached for construction. It also includes</p> <p>24 fastening parts, fastening holes and frames involved in</p>
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<p>1 construction on, somebody can correct me if I am wrong.</p> <p>2 MR. CHRISTENSON: We do.</p> <p>3 MS. ROMAN: So, flat panel display</p> <p>4 device in topic No. 1. I believe that's also in topic</p> <p>5 No. 5.</p> <p>6 SPECIAL MASTER POPPITI: Just one second</p> <p>7 to make sure I am on the same page with you. I</p> <p>8 understand there is an agreement, but I am looking at --</p> <p>9 MR. CHRISTENSON: Your Honor, I think</p> <p>10 there was a little misunderstanding. When you said "new</p> <p>11 topic one," actually, that would be supplemental topic</p> <p>12 31.</p> <p>13 SPECIAL MASTER POPPITI: Thank you.</p> <p>14 MR. CHRISTENSON: I think Ms. Roman is</p> <p>15 working from the original ordering.</p> <p>16 SPECIAL MASTER POPPITI: Thank you.</p> <p>17 Then that's why I was not reading the right language. Go</p> <p>18 ahead, please.</p> <p>19 MS. ROMAN: So, topic No. 1 includes the</p> <p>20 language, quote, Seeking the structure of the visual</p> <p>21 display products, the method of assembling visual display</p> <p>22 products, including the structure and method of</p> <p>23 assembling the flat panel display and flat panel display</p> <p>24 device contained in each of those visual display</p>	<p>1 breach for construction.</p> <p>2 Separate and apart from --</p> <p>3 SPECIAL MASTER POPPITI: Let me hear a</p> <p>4 response with respect to topic No. 1.</p> <p>5 MR. AMBROZY: Our position is as long as</p> <p>6 the terms, if they are in the ordinary course of what one</p> <p>7 ordinarily skilled would understand those terms and they</p> <p>8 are proper, and also as the terms relate to products that</p> <p>9 are sold by the defendants, we think the terms are proper</p> <p>10 to be used, and in that -- they basically describe the</p> <p>11 inventions, therefore, allows us to tie the inventions to</p> <p>12 the accused products, there is no other way, Your Honor,</p> <p>13 to really walk through an accused product without having</p> <p>14 some sort of identification of the elements within that</p> <p>15 product.</p> <p>16 SPECIAL MASTER POPPITI: I don't see any</p> <p>17 way that that can be done and I expect that the witness</p> <p>18 is not being deposed for purposes of having that witness</p> <p>19 do a -- or commit the party to a claim, a definition of a</p> <p>20 claim or a view as to what your ultimate position with</p> <p>21 respect to the construction of the claim is.</p> <p>22 MR. AMBROZY: That's correct, Your</p> <p>23 Honor.</p> <p>24 MS. ROMAN: I appreciate that</p>

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1 clarification, Your Honor, because that's precisely what
2 I proposed last to Mr. Christenson.

3 SPECIAL MASTER POPPITI: That's what
4 should be going on, I would expect, because, otherwise,
5 you are all going to be using sign language during the
6 course of these depositions.

7 MS. ROMAN: It could actually be more
8 effective at times, perhaps.

9 SPECIAL MASTER POPPITI: You may be
10 right.

11 MS. ROMAN: I simply wanted
12 clarification on that, and it sounds like we are all in
13 accord that as long as those topics aren't seeking a
14 witness to testify regarding the interpretation of those
15 claim terms or committing to an interpretation, then that
16 clarifies the concern.

17 SPECIAL MASTER POPPITI:
18 Mr. Christenson?

19 MR. CHRISTENSON: Yes, Your Honor. I
20 think that -- that, as Mr. Ambrozy said, that's not our
21 intent. I am not sure what communication Ms. Roman was
22 referring to with me.

23 MS. ROMAN: It was the one I sent to you
24 yesterday, Cass, regarding topics 1, 27, and 29.

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1 MR. CHRISTENSON: I don't think that
2 issue was raised. We are not trying to make the fact
3 witness into an expert, Your Honor.

4 SPECIAL MASTER POPPITI: Thank you.

5 MS. ROMAN: Can we resolve
6 clarification, perhaps, then, on topic five?

7 SPECIAL MASTER POPPITI: Yes. Any and
8 all technical, economic, or other, etcetera?

9 MS. ROMAN: Yes, Your Honor, that's the
10 correct topic.

11 SPECIAL MASTER POPPITI: Okay.

12 MS. ROMAN: And perhaps this is just
13 different interpretations of it, but the way I read topic
14 five, it asks for any of that information concerning the
15 structures and methods of assembly claimed in the
16 patents-in-suit and any comparisons or analysis conducted
17 by you or for you concerning the mounting of flat panel
18 displays or flat panel display devices used in visual
19 display products, etcetera.

20 We read the entire topic No. 5, or I
21 understood it to be seeking mounting structures and
22 methods of assembly and comparisons or analysis regarding
23 those mounting structures or assemblies that are claimed
24 in the patents-in-suit, and I think that goes directly to

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1 the claim construction.

2 MR. AMBROZY: Your Honor, for the same
3 reason that we believe the terms were proper in topic
4 one, they are proper in topic five. Again, it's just to
5 point the defendants so they can properly prepare their
6 witnesses as to what the witness should be able to
7 testify on, which is the mounting structures and the
8 methods of assembly.

9 MR. CHRISTENSON: I specifically
10 informed Ms. Roman of that, that that's our intent, and
11 the fact that there may be a reference in there to the
12 claimed invention in the patent wasn't -- was not
13 intended to be a result-oriented analysis.

14 There are topics in the ViewSonic's
15 notice that also refer to what's claimed in the patents;
16 for example, topic 23A. But, in any event, I clarified
17 for Ms. Roman that our intent is to focus, as Mr. Ambrozy
18 said, on the relevant structures and methods of assembly.
19 There are many other structures and assembly-related
20 issues that are not at issue in this case, so we are not
21 trying to make it that broad. We are trying to make it
22 relevant to the types of structures and assembly-related
23 facts that are relevant to these claims.

24 MS. ROMAN: I guess my concern was that

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1 it's speaking of technical, economic, or other advantages
2 or benefits or disadvantages concerning the inventions,
3 concerning the structure, the methods of assembly claimed
4 in the patents-in-suit. Until we have got definition as
5 to what the invention as claimed in the patents-in-suit
6 are, how can our witnesses testify about the technical,
7 economic, or other advantages of those?

8 MR. AMBROZY: It's our opinion that
9 those witnesses would be able to testify because they are
10 the 30(b)(6) and/or fact witnesses that work at
11 ViewSonic. They can testify about the structure used in
12 the various devices that they sell.

13 MR. CHRISTENSON: Your Honor, do you
14 have ViewSonic's deposition topics in front of you?

15 SPECIAL MASTER POPPITI: If you -- I
16 know that you referenced them, so if you point me to one
17 of your exhibits, that would be helpful.

18 MR. CHRISTENSON: Yes, Your Honor. I
19 believe that in our -- I am just looking to see if I can
20 find the copy of the notices -- I think it was in our
21 March 2nd -- I am sorry, our March 12th letter, I believe
22 it was maybe Exhibits 5 and 6, perhaps -- I believe
23 Exhibits 3, 4, 5, and 6 to our March 12 letter include
24 the four deposition notices from ViewSonic.

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13 (Pages 46 to 49)

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<p>1 SPECIAL MASTER POPPITI: It does.</p> <p>2 MR. CHRISTENSON: And I think it would</p> <p>3 then be Exhibit 6, Your Honor, if you could find that</p> <p>4 exhibit.</p> <p>5 SPECIAL MASTER POPPITI: I have it in</p> <p>6 front of me.</p> <p>7 MR. CHRISTENSON: If you could please</p> <p>8 turn to topic 20B?</p> <p>9 SPECIAL MASTER POPPITI: 20B?</p> <p>10 MR. CHRISTENSON: I am sorry, 20C, as in</p> <p>11 Charlie.</p> <p>12 SPECIAL MASTER POPPITI: 20C?</p> <p>13 MR. CHRISTENSON: Yes, Your Honor.</p> <p>14 SPECIAL MASTER POPPITI: I have 20C in</p> <p>15 front of me.</p> <p>16 MR. CHRISTENSON: Your Honor, I think if</p> <p>17 you read that topic that was served on us and for which</p> <p>18 we designated a witness, I can't -- I really cannot</p> <p>19 understand the objection.</p> <p>20 SPECIAL MASTER POPPITI: I am looking at</p> <p>21 20C, and although it's not a mirror, it's pretty darn</p> <p>22 close, is it not?</p> <p>23 MS. ROMAN: I am sorry, what number am I</p> <p>24 looking at?</p>	<p>1 simple resolution of what we have already discussed,</p> <p>2 which is that topic five is not seeking a ViewSonic</p> <p>3 witness to provide their interpretation of claim terms or</p> <p>4 to be committed to any particular claim terms.</p> <p>5 SPECIAL MASTER POPPITI: I think it</p> <p>6 would have to be, would it not, counsel?</p> <p>7 MR. CHRISTENSON: Yes, Your Honor. I</p> <p>8 don't think that topic calls for a definitive claim term.</p> <p>9 SPECIAL MASTER POPPITI: As long as</p> <p>10 that's the understanding, then that topic can stand as it</p> <p>11 is written.</p> <p>12 MS. ROMAN: Your Honor, I think that</p> <p>13 resolves all of the topics that related to the</p> <p>14 infringement or invalidity or claim construction issues.</p> <p>15 SPECIAL MASTER POPPITI: Okay.</p> <p>16 MS. ROMAN: I believe there is only two</p> <p>17 other areas that the motion raised, one of which is the</p> <p>18 issue regarding the date restriction.</p> <p>19 SPECIAL MASTER POPPITI: Yes.</p> <p>20 MS. ROMAN: For many of the topics, LPL</p> <p>21 has listed a date of January 1, 2000, and then, for many</p> <p>22 of the topics, there is no date restriction at all. And</p> <p>23 we raise the concern that since the patents did not even</p> <p>24 issue until December 24th of 2002, we would request the</p>
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<p>1 SPECIAL MASTER POPPITI: 20C, "Any</p> <p>2 advantages, disadvantages, benefits, or detriments,</p> <p>3 whether technical, financial, or legal, pertaining to</p> <p>4 any," etcetera.</p> <p>5 MR. CHRISTENSON: And it refers</p> <p>6 specifically to the inventions claimed in the patent.</p> <p>7 SPECIAL MASTER POPPITI: Of any of the</p> <p>8 asserted patents.</p> <p>9 MR. CHRISTENSON: Right. Which is what</p> <p>10 they are now complaining about.</p> <p>11 SPECIAL MASTER POPPITI: That's why I</p> <p>12 said, It's certainly not a mirror, but it's virtually</p> <p>13 identical.</p> <p>14 MS. ROMAN: Well, notwithstanding that I</p> <p>15 believe that the company that invented it would be in a</p> <p>16 better position to discuss whether there were any such</p> <p>17 advantages or disadvantages and knows what their</p> <p>18 invention was that they created, I do see the --</p> <p>19 SPECIAL MASTER POPPITI: I understand</p> <p>20 they may be in a better position to do that, but that</p> <p>21 doesn't preclude them from asking the question and having</p> <p>22 somebody say, I don't know.</p> <p>23 MS. ROMAN: Right. So, with respect to</p> <p>24 topic five, then, I think it's, based on this, it's a</p>	<p>1 -- in our motion, we requested May 28th, 2004, which is</p> <p>2 the date ViewSonic contends it first learned of the</p> <p>3 patents-in-suit, but having read LPL's opposition, we</p> <p>4 recognize and understand that they are entitled to --</p> <p>5 SPECIAL MASTER POPPITI: They are</p> <p>6 entitled to test that.</p> <p>7 MS. ROMAN: Yes, Your Honor. We would</p> <p>8 like to consider limiting the testimony to December 24th,</p> <p>9 2002, which was the date on which the patents issued.</p> <p>10 It's the earliest date that could come into play on these</p> <p>11 topics.</p> <p>12 MR. AMBROZY: Again, I don't see the</p> <p>13 logic there because if we are asking about what ViewSonic</p> <p>14 knew or what was known in the industry, we would want to</p> <p>15 know before the patent, the date Ms. Roman gave. I think</p> <p>16 the relevant dates are back in 1997, 1998.</p> <p>17 MR. CHRISTENSON: Your Honor, just to</p> <p>18 add on to that, I think the easiest way to resolve this</p> <p>19 and show that the argument is not persuasive is if you</p> <p>20 would turn to Exhibit 5 to our submission, which is</p> <p>21 ViewSonic's deposition notice concerning topics 13</p> <p>22 through 18.</p> <p>23 SPECIAL MASTER POPPITI: Just a moment.</p> <p>24 I am at -- just a moment.</p>

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14 (Pages 50 to 53)

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1 MR. CHRISTENSON: Specifically, topic
2 13, Your Honor.

3 SPECIAL MASTER POPPITI: I am looking at
4 your submittal, and I am looking at Exhibit 5, and I
5 don't see a 13. It starts at 19 on page 7; am I correct?

6 MR. CHRISTENSON: That could be right,
7 Your Honor. Maybe it's the exhibit before that.

8 SPECIAL MASTER POPPITI: I will look at
9 that one. It is the one before that. 13 what, please?

10 MR. CHRISTENSON: Yes. Essentially
11 topic 13 which has subparts A through W.

12 SPECIAL MASTER POPPITI: It does.

13 MR. CHRISTENSON: It seeks a broad range
14 of financial information, Your Honor, from LPL. Most of
15 the subtopics have no date limitation; however, when
16 there is a date limitation, for example, topic 13 P, as
17 in Paul.

18 SPECIAL MASTER POPPITI: That's 1998?

19 MR. CHRISTENSON: Yes, Your Honor.
20 Similarly, topic 13 S, as in Sam, topic 13 T, as in Tom,
21 goes back to 1998. I had a specific discussion with
22 ViewSonic in January proposing that we agree on a time
23 frame, and, initially, ViewSonic's counsel expressed
24 interest in doing so, but very shortly thereafter, stated

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1 they would not agree to a time frame.

2 So, I can't see how they could possibly
3 contend now that this earlier time frame would not be
4 relevant and that it would be inappropriate to have more
5 open-ended topic time periods when those are the time
6 periods that they used in their notice.

7 Our notice is less broad, Your Honor,
8 than their own notice.

9 SPECIAL MASTER POPPITI: Any other
10 comments, please?

11 MS. ROMAN: Yes, Your Honor. Just for
12 purposes of, as I understand it, actual profits aren't
13 being sought on this case and it's limited to reasonable
14 royalty damages, and reasonable royalty damages would be
15 considered at the time that the patents issued and not
16 before then.

17 SPECIAL MASTER POPPITI: Yes.

18 MS. ROMAN: We talking about having a
19 witness prepared to go through two years before that on
20 sales information of products that wouldn't come into
21 play, for example, in this case, just seems an undue
22 burden for information that can't actually be used in
23 this case.

24 SPECIAL MASTER POPPITI: I agree. Now,

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1 the other question, however, is, and Mr. Christenson, you
2 will have to point me to -- you took the position with
3 respect to the development of certain technology. The
4 question was: How do you compare?, was it not?

5 MR. CHRISTENSON: Yeah. There are a
6 couple questions, Your Honor. One question is: What
7 were the level of sales for products that ViewSonic sold
8 before they began to use our technology, and what were
9 the sales after they began to use our technology? I
10 think that's a relevant point of comparison, for example.
11 That's with respect to damages.

12 With respect to technology, I think that
13 raises a host of other issues, but I think that Ms. Roman
14 is targeting the time period with respect specifically to
15 reasonable royalty questions on the amount of sales.

16 SPECIAL MASTER POPPITI: So, what date
17 would you propose? It's certainly not going to be
18 open-ended; correct? You don't prepare a witness to say
19 "from the beginning of time."

20 MR. CHRISTENSON: That's true, Your
21 Honor. I think that, you know, if we could go back to --
22 I think the time period that we used typically is January
23 1, 2000. They go back to an earlier time period, as I
24 just mentioned, and I just showed it to you, so, you

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1 know, they went back to 1998. I would suggest we should
2 be able to go back to 1998. If we can go back to 1998, I
3 would think we could go to January 1, 2000.

4 MS. ROMAN: Cass, I wasn't privy to the
5 discussions you mentioned earlier about this proposed
6 compromise on a date. I am sure that went to document
7 production and issues, but was January 1, 2000, the date
8 that you were proposing?

9 MR. CHRISTENSON: It went to the
10 deposition topics, and I can't recall right now
11 specifically what the date was.

12 MS. ROMAN: So it would seem to me that
13 a year's worth of sales before the patent would be more
14 than enough, particularly given that, you know, most of
15 this technology was just starting to come into the market
16 during that time period.

17 MR. CHRISTENSON: My proposal had been
18 that we should pick a uniform date that would apply all
19 the way around, and the two dates that were on the table
20 were 1998, which was your date, and our date, which was
21 2000.

22 MS. ROMAN: I also don't want to be in a
23 position to having a date agreed to for the depositions
24 that doesn't reflect what had been agreed to for the

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15 (Pages 54 to 57)

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<p>1 production of documents. I am a little concerned that I</p> <p>2 am at a disadvantage. I don't know what has been</p> <p>3 produced for purposes of documents on this information.</p> <p>4 MR. CHRISTENSON: I think LPL has</p> <p>5 produced back to the year 2000. I think we have</p> <p>6 attempted to get information from ViewSonic back to</p> <p>7 sometime before December, 2002, but I think that, so far,</p> <p>8 ViewSonic has refused to provide that discovery, and I am</p> <p>9 not sure if Tatung is providing it back to before</p> <p>10 December 2002.</p> <p>11 SPECIAL MASTER POPPITI: Mr. Merideth?</p> <p>12 I mean, that would be helpful. It mean, it does make</p> <p>13 sense to parallel what has, either what has been</p> <p>14 produced -- there is no application, that I am aware of,</p> <p>15 to -- unless this is part of the clean up they had not</p> <p>16 done, but it seems to me to use the same date and time</p> <p>17 frame makes sense.</p> <p>18 MR. MERIDETH: I agree, Your Honor.</p> <p>19 SPECIAL MASTER POPPITI: So, do you have</p> <p>20 in mind Tatung production with respect to the issue we</p> <p>21 are talking about?</p> <p>22 MR. MERIDETH: I think that, if we are</p> <p>23 talking about the sales, that we have done so.</p> <p>24 MS. ROMAN: Your Honor, I believe</p>	<p>1 MR. CHRISTENSON: Your Honor, we can do</p> <p>2 that. I think what I should probably do as a first step</p> <p>3 is go back and look at the December 28 transcript. I</p> <p>4 think I raised it at that time.</p> <p>5 SPECIAL MASTER POPPITI: You may have,</p> <p>6 but I just don't really have it in mind at this point.</p> <p>7 We can deal with it -- if you will do that for me</p> <p>8 tomorrow, we will deal with it on Friday.</p> <p>9 MR. CHRISTENSON: Yes, Your Honor.</p> <p>10 MS. ROMAN: Thank you, Your Honor.</p> <p>11 I guess that takes us just to the final</p> <p>12 issue in the motion, which also raises a couple of</p> <p>13 different topics, but I will give you the topic numbers.</p> <p>14 SPECIAL MASTER POPPITI: Okay.</p> <p>15 MS. ROMAN: 13, 14, 15, 19, 20, 25, and</p> <p>16 29.</p> <p>17 SPECIAL MASTER POPPITI: Okay.</p> <p>18 MS. ROMAN: With respect to these</p> <p>19 topics, we are not seeking a preclusion on the entirety</p> <p>20 of the topics. It's that each of these topics sweeps in</p> <p>21 a concern regarding testimony that would have to be given</p> <p>22 about ViewSonic's customers, resellers, distributors of</p> <p>23 its products.</p> <p>24 We have got over 230 products, I</p>
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<p>1 Mr. Christenson was correct with respect to ViewSonic,</p> <p>2 that it went to December 1, 2002.</p> <p>3 SPECIAL MASTER POPPITI: We will use --</p> <p>4 MR. CHRISTENSON: Your Honor, that was</p> <p>5 the point -- that's a point of dispute. We feel it</p> <p>6 should go back to at least January 1st of that year.</p> <p>7 SPECIAL MASTER POPPITI: I understand --</p> <p>8 is that before me right now? If it is --</p> <p>9 MR. CHRISTENSON: I think it is, Your</p> <p>10 Honor.</p> <p>11 MR. AMBROZY: Not to throw a monkey</p> <p>12 wrench in all this, but in regards to the validity</p> <p>13 aspect, which I believe is at least No. 8, we would</p> <p>14 respectfully request that the date be December of 1997.</p> <p>15 MS. ROMAN: Your Honor, I am okay with</p> <p>16 that.</p> <p>17 SPECIAL MASTER POPPITI: Well, with</p> <p>18 respect to the sales, we will go back to the time frame</p> <p>19 for which production has been provided, and if I have</p> <p>20 before me an application to make that date earlier, then</p> <p>21 what I am going to ask be done is if, counsel, if you can</p> <p>22 make sure that you tell me where that is in terms of the</p> <p>23 filings that you have made so I can check and see where</p> <p>24 it is in terms of decision making.</p>	<p>1 believe, or somewhere in the neighborhood of 230 products</p> <p>2 that ViewSonic has identified and hundreds of customers</p> <p>3 that sell these products. To the extent that these</p> <p>4 topics are seeking a witness to testify as to</p> <p>5 correspondence between ViewSonic and each of those</p> <p>6 hundreds of customers regarding each of those 230</p> <p>7 products, we are concerned that it's not only an undue</p> <p>8 burden for ViewSonic to have to do it, but that is not</p> <p>9 really going to yield information that relates to any</p> <p>10 claim in this case that really belongs in the case.</p> <p>11 I understand the concern that LPL has is</p> <p>12 that this kind of information goes to the issue of</p> <p>13 indirect infringement for inducement, but I believe, as</p> <p>14 the parties have previously discussed with Your Honor,</p> <p>15 LPL has an entitlement to a single recovery from</p> <p>16 ViewSonic. That single recovery would be coming from any</p> <p>17 direct infringement which necessarily would have to be</p> <p>18 proven before even getting to indirect infringement.</p> <p>19 SPECIAL MASTER POPPITI: Right.</p> <p>20 MS. ROMAN: To the extent that this</p> <p>21 discovery -- or to the extent these topics seek discovery</p> <p>22 that goes solely to indirect infringement, we just are</p> <p>23 concerned that the burden that would be required to</p> <p>24 prepare for it is stronger than the amount of relevant</p>

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16 (Pages 58 to 61)

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1 information that could be had because it can only go to
 2 indirect infringement.
 3 SPECIAL MASTER POPPITI:
 4 Mr. Christenson.
 5 MR. CHRISTENSON: Yes, Your Honor.
 6 Thank you.
 7 First of all, we have -- we have
 8 addressed this issue, I think this came up at the
 9 December 28th hearing as well, and as we explained at
 10 that time, ViewSonic contends that it does not directly
 11 infringe any of these patents. And although there may be
 12 only a single recovery, there are two separate theories
 13 for which we can attain a recovery. One theory is direct
 14 infringement by ViewSonic and another theory is any
 15 inducement of infringement by ViewSonic.
 16 Similarly for Tatung, we are going to
 17 seek liability, including liability for inducement by
 18 Tatung. And I think we are entitled to explore the facts
 19 and get the information we need to be able to pursue
 20 those theories at trial. ViewSonic does not concede that
 21 it directly infringes, so I don't know how it can have it
 22 both ways.
 23 And in terms of the scope and the breath
 24 and the burden, again, Your Honor, if you could please

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1 look at exhibit, I believe it's Exhibit 4, ViewSonic's
 2 deposition notice, topic 15B.
 3 SPECIAL MASTER POPPITI: Just a second.
 4 MR. CHRISTENSON: Topic 15B.
 5 SPECIAL MASTER POPPITI: 15B?
 6 MR. CHRISTENSON: Yes, and 15C. Your
 7 Honor, this is really a theme. You know, they want this
 8 information from us, we have to provide a witness, and
 9 then after they get the information from us, they turn
 10 around and complain that this is not appropriate.
 11 This information from us is much less
 12 relevant to any issue with respect to our sales and our
 13 distribution chain of our products, and, yet, they
 14 somehow think they are entitled to that information.
 15 When we seek it for a relevant purpose, they complain
 16 about it. And topic 15B and 15C, Your Honor, are not
 17 limited in terms of -- if you look at 15B, for example,
 18 it's not limited to any specific products. It's very
 19 open-ended and very broad.
 20 SPECIAL MASTER POPPITI: Well, at this
 21 juncture, you do have alternative theories of recovery,
 22 and there certainly is not going to be an agreement that
 23 there is direct infringement.
 24 I mean, that's a fair statement, is it

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1 not?
 2 MS. ROMAN: Yes, Your Honor, that is a
 3 fair statement. But the alternative theory of
 4 infringement that they are working from only comes into
 5 play if they have proven the first theory, which is
 6 direct infringement. So, regardless of whether we agree
 7 that we directly infringed, the point is that they have
 8 to -- they have to get to that juncture before even
 9 getting to the indirect infringement anyway. So indirect
 10 infringement really falls out of the case. I guess
 11 that's where I am confused.
 12 SPECIAL MASTER POPPITI:
 13 Mr. Christenson, why don't you speak to that?
 14 MR. CHRISTENSON: Sure. I can give you
 15 a specific example.
 16 SPECIAL MASTER POPPITI: I expect you
 17 would.
 18 MR. CHRISTENSON: That is, we
 19 understand, from documents that we have obtained, that
 20 ViewSonic has customers that received shipments directly
 21 from ViewSonic's manufacturers who make ViewSonic
 22 products and ship the ViewSonic products directly to the
 23 customer. And, so, ViewSonic, itself, may not have
 24 directly imported that product into the United States,

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1 but they may have induced the customer to import the
 2 product. So the customer would be the direct infringer
 3 and ViewSonic would be the indirect infringer,
 4 potentially.
 5 MS. ROMAN: I am sorry. Maybe I didn't
 6 understand that. ViewSonic doesn't have manufacturers.
 7 They get these products from OEMs.
 8 MR. CHRISTENSON: Right, OEM
 9 manufacturers that supply the products.
 10 MS. ROMAN: I am sorry. Are you saying
 11 that you have, for example, Best Buy, which is a customer
 12 of ViewSonic, do you have information that shows that
 13 Best Buy purchases a product from maybe Jean Company, one
 14 of the OEMs, directly, but it's not a ViewSonic product,
 15 but because one of the retailers that sells our product
 16 also buys products directly from OEMs, from whom we also
 17 happen to buy a product, do you want to know if we
 18 induced them to do that?
 19 MR. CHRISTENSON: We have an
 20 understanding that ViewSonic products made by OEMs are
 21 shipped directly from the OEMs, in some cases, to
 22 ViewSonic's customer in the U.S. and ViewSonic could
 23 certainly be liable for inducing that customer to import
 24 that product if it infringes.

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17 (Pages 62 to 65)

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<p>1 MS. ROMAN: If I am not mistaken, and I</p> <p>2 am happy to follow-up on this, but any such sales are</p> <p>3 reflected in the sales information that ViewSonic</p> <p>4 provided.</p> <p>5 MR. CHRISTENSON: I tried to confirm</p> <p>6 that with Mr. Miller, and he told me to take a deposition</p> <p>7 to find that out. That's what I am trying to do, Your</p> <p>8 Honor.</p> <p>9 SPECIAL MASTER POPPITI: If that's what</p> <p>10 he told you to do, that's certainly what this is designed</p> <p>11 to do, and if it's designed to do that, it is an</p> <p>12 alternative theory, I am going to permit it.</p> <p>13 MR. CHRISTENSON: Thank you, Your Honor.</p> <p>14 MS. ROMAN: Your Honor, we need to have</p> <p>15 clarification on the scope, though. As I mentioned,</p> <p>16 there is 230 products, and ad nauseam correspondence,</p> <p>17 perhaps, with each of 100 different customers regarding</p> <p>18 these products that have nothing to do with the standard</p> <p>19 we are talking about --</p> <p>20 SPECIAL MASTER POPPITI: I am concerned</p> <p>21 about the scope, and I am not quite sure, as I am sitting</p> <p>22 here without the benefit of your respective thoughts on</p> <p>23 scope, how to address it, so why don't you see if you</p> <p>24 can't help me a bit here on scope.</p>	<p>1 can pin anybody down to a specific question right now.</p> <p>2 MS. ROMAN: And I guess I would offer</p> <p>3 that, you know, ViewSonic certainly will talk about --</p> <p>4 its witnesses will testify about the general business</p> <p>5 model and the marketing strategy and the types of</p> <p>6 communications it normally does have with its customers,</p> <p>7 and to the extent that counsel has specific documents</p> <p>8 showing correspondence or information regarding specific</p> <p>9 correspondence that it wants to question the witness</p> <p>10 about, you know, working from a disadvantage here, the</p> <p>11 witness would have to be thinking off the top of their</p> <p>12 head or working from any document put in front of them.</p> <p>13 But, otherwise, I mean, this</p> <p>14 correspondence, documents that haven't been produced</p> <p>15 because it was the subject of a prior motion, so --</p> <p>16 SPECIAL MASTER POPPITI: Say that again.</p> <p>17 MS. ROMAN: This type of correspondence,</p> <p>18 all the correspondence between the 100 customers and 230</p> <p>19 products isn't documents that have been produced because</p> <p>20 it was the subject of a motion.</p> <p>21 SPECIAL MASTER POPPITI: Okay.</p> <p>22 MS. ROMAN: I guess my concern is -- I</p> <p>23 understand what Mr. Christenson is saying, but I don't</p> <p>24 want to be in a position where we are later at a</p>
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<p>1 MR. CHRISTENSON: Your Honor, I think I</p> <p>2 can offer a suggestion. First of all, as I pointed out,</p> <p>3 topic 15B is equally broad and is not limited in any way.</p> <p>4 It talks about all the meetings, all the distribution</p> <p>5 channels, and all the ways that all of LPL's products are</p> <p>6 sold. So this goes both ways, Your Honor. And we went</p> <p>7 forth with the deposition of our witness under this type</p> <p>8 of a topic.</p> <p>9 But my suggestion is: We, obviously,</p> <p>10 are going to try to direct these questions for our own</p> <p>11 benefit to make the questions relevant and useful and we</p> <p>12 are not going to try to delve off into -- in fact, we</p> <p>13 don't have the time, even if we had the intent, which we</p> <p>14 don't, to delve off into unnecessary or irrelevant</p> <p>15 information.</p> <p>16 And, so, just as I would hope that</p> <p>17 ViewSonic, when they deposed our witness, thought that</p> <p>18 they kept it focused on the appropriate issues, we intend</p> <p>19 to keep the questions focused on the appropriate issues,</p> <p>20 and I suspect if we don't, then the witness won't know</p> <p>21 the answer, and then, you know, you would decide, if the</p> <p>22 witness did know the answer, whether the question was</p> <p>23 appropriate. But I don't know how we can do this on a --</p> <p>24 without the depositions happening, I don't know how we</p>	<p>1 disadvantage for not having produced documents that we</p> <p>2 haven't been required to produce and not having a witness</p> <p>3 testify as to those documents or having a witness have to</p> <p>4 testify about stuff that has not been part of the case.</p> <p>5 And I guess I would ask that Mr. Christenson, if he</p> <p>6 could, agree to specific correspondence that they have</p> <p>7 identified as stuff that they can talk about, but if we</p> <p>8 are talking about broad sweeping, Tell me every</p> <p>9 communication you have had with X customer, tell me every</p> <p>10 communication you have had with Y customer, that that's</p> <p>11 not the sort of thing that we are going to be getting</p> <p>12 into.</p> <p>13 MR. CHRISTENSON: Your Honor, as I said,</p> <p>14 I am going to ask reasonable questions, and I don't know</p> <p>15 what else I can say about that.</p> <p>16 SPECIAL MASTER POPPITI: Well, here is</p> <p>17 what I want to do at this juncture. I am not going to do</p> <p>18 anything to restrict the subject matters at this point.</p> <p>19 I am mindful of the fact that there is that motion that</p> <p>20 has to be resolved, and what I'd like to do is circle</p> <p>21 back to these topics, that is, 13, 14, 15, 19, 20, 25,</p> <p>22 and 29 on Friday.</p> <p>23 MR. MERIDETH: Your Honor, let me just</p> <p>24 check one thing, if I might.</p>

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18 (Pages 66 to 69)

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1 MS. ROMAN: I think I know what you are
2 checking and I think the problem is the date of this
3 witness' deposition.
4 MR. AMBROZY: This goes back to your
5 earlier point, Your Honor, about why not earlier. We
6 have got depositions scheduled on these topics and
7 ViewSonic has actually designated witnesses on these
8 topics.
9 SPECIAL MASTER POPPITI: When?
10 MR. AMBROZY: For Wednesday and -- I am
11 sorry, for Thursday and Friday this week.
12 SPECIAL MASTER POPPITI: Thursday and
13 Friday this week. Just give me a moment.
14 Counsel, I am just going to have to let
15 these go forward, then, and it's going to -- if the
16 depositions, themselves, create issues that I need to
17 deal with, I will just have to make myself available.
18 MR. CHRISTENSON: Very well, Your Honor.
19 MS. ROMAN: Thank you, Your Honor. I
20 think that was the last issue in our motion. I really,
21 again, appreciate you taking the time and everybody
22 taking the time to allow us to be heard.
23 SPECIAL MASTER POPPITI: Okay. Any
24 other matters, then, please, for this evening?

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1 MR. MERIDETH: Yes, Your Honor.
2 SPECIAL MASTER POPPITI: Yes.
3 MR. MERIDETH: Yesterday, there was an
4 issue raised by LG Phillips to the effect that Tatung
5 America had created CAD CAM drawings and it produced CAD
6 CAM drawings and it demand that they produce all CAD CAM
7 drawings for all Tatung America products.
8 We were --
9 SPECIAL MASTER POPPITI: Is this a March
10 12 correspondence?
11 MR. MERIDETH: Yes, sir. We expressed
12 some consternation about that because we were unaware
13 that there were any CAD CAM drawings and it represented
14 and still represent that Tatung America does not create
15 CAD CAM drawings for its products.
16 We asked for a bates number. That Bates
17 No. turned out to be a non-existent bates number. We
18 tried to track down all the documents. We now have. And
19 it turns out that it was not a CAD CAM drawing created by
20 Tatung America, which is patently obvious when you look
21 at the document.
22 In fact, it was an engineering drawing
23 contained in a service manual provided by a third-party
24 vendor, and it was clearly designated as a drawing

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1 created by a Top View Display Technologies, Inc.
2 It seems to me, and I am a bit -- I must
3 say I am very frustrated over this. We were unable to
4 address the accusation, which was a very serious one,
5 made yesterday, because it was made without providing any
6 written notice. The Bates No. -- I mean, I tried to go
7 find the document during the call. The Bates No. was
8 wrong. And then it turns out that it's not a document
9 that was created by Tatung America at all.
10 And, so, we have a serious allegation
11 that's been made, no attempt to meet and confer. This
12 clearly would have been straightened out if someone would
13 have called up and said, Hey, what's this drawing? We
14 could have gotten to the bottom of it. On top of that, I
15 requested further clarification and I couldn't get a
16 response.
17 So, I am very frustrated over that and I
18 am very frustrated that a false impression was created
19 yesterday by LG Phillips that our representations, as to
20 what had been produced, were not accurate.
21 MR. AMBROZY: Your Honor, if I may
22 respond?
23 SPECIAL MASTER POPPITI: Before you
24 respond, there was no impression created one way or the

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1 other because I simply had one side of -- one side of the
2 view with respect to the issue that was raised. So,
3 Mr. Ambrozy.
4 MR. AMBROZY: Your Honor, I believe that
5 Your Honor read the Bates No. from the document.
6 SPECIAL MASTER POPPITI: I did.
7 MR. AMBROZY: And I did not have it in
8 front of me when you read it, Your Honor, but that Bates
9 No., I believe, was directly from the document that was
10 included in the letter that we sent to Your Honor.
11 SPECIAL MASTER POPPITI: Well, the Bates
12 No., and I don't remember, as I am sitting here, which
13 number I read in, but I read -- as you know, there are
14 two numbers in the body of the letter, itself.
15 MR. MERIDETH: I believe that's correct,
16 Your Honor.
17 SPECIAL MASTER POPPITI: And I read at
18 least one if not both of those Bates Nos. I seem to
19 recall I read one.
20 MR. AMBROZY: I believe the way we
21 characterized it was it was an exploded view diagram/CAD
22 CAM, so we were not specifically stating that that
23 represented a CAD CAM drawing. We were just bringing to
24 Your Honor's attention, based on what we heard during the

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19 (Pages 70 to 73)

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<p>1 Friday hearing, was that Tatung did not have -- Tatung</p> <p>2 has produced everything it had in regard to the work</p> <p>3 instructions and in regard to Tatung America's product.</p> <p>4 And that -- and the universe of those documents were</p> <p>5 photographed with annotations below them or next to them.</p> <p>6 And then we were surprised when we got a</p> <p>7 late production on, I believe it was the night of the</p> <p>8 7th, we finally saw it over the weekend, and we were</p> <p>9 surprised to see that there were documents other than</p> <p>10 photographs with annotations on them produced by Tatung</p> <p>11 America. And that's all we were bringing the Court's</p> <p>12 attention was that if there were other documents like</p> <p>13 that that had not yet been produced or that we were not</p> <p>14 aware of, then we wanted to know about them as well as</p> <p>15 bring them to the Court's attention. That was the sole</p> <p>16 purpose of that letter. It wasn't to cast any</p> <p>17 dispersions.</p> <p>18 SPECIAL MASTER POPPITI: Well, it seems</p> <p>19 to me there is no issue, then, with respect to that</p> <p>20 letter; is that correct?</p> <p>21 MR. AMBROZY: Not from LPL, Your Honor.</p> <p>22 SPECIAL MASTER POPPITI: Mr. Merideth.</p> <p>23 MR. MERIDETH: Well, I mean, what was</p> <p>24 the point of sending it, then, and raising it at the</p>	<p>1 think that if someone had called and said, Gee, what is</p> <p>2 this?, if they didn't understand what it was, it could</p> <p>3 have been resolved immediately. There was no need to</p> <p>4 cause a big issue in the hearing.</p> <p>5 MR. AMBROZY: We will work to do that in</p> <p>6 the future.</p> <p>7 SPECIAL MASTER POPPITI: Thank you,</p> <p>8 Mr. Ambrozy.</p> <p>9 MR. MERIDETH: Thank you, Your Honor.</p> <p>10 SPECIAL MASTER POPPITI: Anything else,</p> <p>11 please? Thank you all.</p> <p>12 Would local counsel, please, between now</p> <p>13 and Friday, make sure that whatever agenda we have, I am</p> <p>14 aware of with respect to Friday? I know we begin at</p> <p>15 3:00.</p> <p>16 MR. KIRK: Yes, Your Honor.</p> <p>17 SPECIAL MASTER POPPITI: Thank you so</p> <p>18 much.</p> <p>19 (The hearing was concluded at 6:42 p.m.)</p> <p>20</p>
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<p>1 hearing?</p> <p>2 SPECIAL MASTER POPPITI: You made your</p> <p>3 point.</p> <p>4 MR. MERIDETH: I mean, I am under the</p> <p>5 suggestion that somehow or another -- I mean, I got the</p> <p>6 distinct impression that the suggestion was being made,</p> <p>7 and I don't have the transcript, but my take on it was a</p> <p>8 suggestion that there were CAD CAM drawings that Tatung</p> <p>9 had of its products that were not being produced, and</p> <p>10 what would be the reason, if you were not referring to a</p> <p>11 Tatung document, that you would include the page that's</p> <p>12 attached to that that has to do with the sufficiency of</p> <p>13 the work drawings for Tatung's CAD CAM drawings?</p> <p>14 I mean, why would you include that page</p> <p>15 if you weren't implying that the engineering drawing</p> <p>16 that's included in your letter wasn't a Tatung drawing?</p> <p>17 SPECIAL MASTER POPPITI: Mr. Merideth,</p> <p>18 there is a time to be righteously indignant, and I expect</p> <p>19 that's what I am hearing, but if there is nothing before</p> <p>20 me -- I appreciate your comment. I expect it may have</p> <p>21 the effect of causing a little bit of pause before</p> <p>22 something like this is filed in the future, but there is</p> <p>23 nothing for me to deal with; is that correct?</p> <p>24 MR. MERIDETH: Yes, sir. I mean, I just</p>	<p>1 CERTIFICATE.</p> <p>2 STATE OF DELAWARE:</p> <p>3 :</p> <p>4 NEW CASTLE COUNTY:</p> <p>5 I, Renee A. Meyers, a Registered Professional</p> <p>6 Reporter, within and for the County and State aforesaid,</p> <p>7 do hereby certify that the foregoing hearing was taken</p> <p>8 before me, pursuant to notice, at the time and place</p> <p>9 indicated; that the testimony was correctly recorded in</p> <p>10 machine shorthand by me and thereafter transcribed under</p> <p>11 my supervision with computer-aided transcription; that</p> <p>12 the foregoing hearing is a true record of the testimony</p> <p>13 given; and that I am neither of counsel nor kin to any</p> <p>14 party in said action, nor interested in the outcome</p> <p>15 thereof.</p> <p>16 WITNESS my hand this 4th day of March A.D.</p> <p>17 2007.</p> <p>18</p> <p>19 RENEE A. MEYERS</p> <p>20 REGISTERED PROFESSIONAL REPORTER</p> <p>21 CERTIFICATION NO. 106-RPR</p> <p>22 (Expires January 31, 2008)</p> <p>23</p> <p>24</p>

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